

Appln. No. 10/787,516

Attorney Docket No. 10544-288

II. Remarks

Claims 1-42 stand rejected. Claims 36 and 39-41 are being amended, claims 1-35 are being cancelled, and new claims 43-59 are being added. Accordingly, after entering the above amendments, claims 36-59 remain pending.

As amended, claim 36 now requires an optic that defines a near end and a far end and includes a first optical element with a first reflective surface and a second optical element with a second reflective surface oriented orthogonally to the first reflective surface.

Reconsideration of this application in view of the above amendments and the following remarks is herein respectfully requested.

Drawing Objections

In response to the drawing objections, claims 2 and 3 have been cancelled. Accordingly, Applicants respectfully request withdrawal of the objections to the drawings.

Claim Objections

Claims 1, 16, 26, 29, 36, and 39-41 have been objected to for various formalities. In response, claims 36 and 39-41 have been amended as suggested by the Examiner. Claims 1, 16, 26, and 29 have been cancelled. Accordingly, Applicants respectfully request withdrawal of the objections to the claims.



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Claim Rejections - 35 U.S.C. §102

Claims 1, 4, 9, 10, and 15 have been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application 2003/0152192 to Hasegawa (Hasegawa). Claims 1, 4, 9, 10, and 15 have been cancelled. Accordingly, the rejections under 35 U.S.C. §102(e) are now moot.

Claim Rejections - 35 U.S.C. §103(a)

Claims 1, 2, 16, and 23 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 4,958,363 to Nelson, et al. (Nelson) in view of U.S. Patent 3,944,833 to Hounsfield (Hounsfield). Claims 1, 3, 16, 24, 36, 38, and 40 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,204,533 to Simonet (Simonet). Claims 5-7 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hasegawa in view of U.S. Patent 3,852,594 to Paolini (Paolini). Claims 5 and 8 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hasegawa in view of U.S. Patent 6,330,301 to Jiang (Jiang). Claims 11-14 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hasegawa in view of U.S. Patent 6,226,349 to Schuster et al. (Schuster). Claims 36, 37, and 42 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,041,099 to Gutman et al. (Gutman) in view of U.S. Patent 6,504,902 to Iwasaki et al. (Iwasaki). Claims 16-22, 25, 27-33, 35, 38, and 41 were rejected under 35 U.S.C. §103(a) as being



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unpatentable over Gutman and Iwasaki in view of Hasegawa. Claim 26 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Gutman, Iwasaki and Hasegawa in view of Schuster. Claim 34 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Gutman, Iwasaki and Hasegawa in view of U.S. Patent 6,014,423 to Gutman et al. (Gutman). Claims 36, 38, and 39 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Nelson in view of Hounsfield and Gutman '099.

Claims 1-35 have been cancelled. Accordingly, the rejections of claims 1-3, 5-8, 11-14, and 16-35 under 35 U.S.C. §103(a) are now moot.

Regarding Simonet, that reference discusses a device for localizing radiation with a pinhole (16) and a shutter (20) in one embodiment and a device with a bundle of optical fibers (52) in another embodiment. These embodiments alone or in combination do not show or suggest an optic that includes a first optical element with a first reflective surface and a second optical element with a second reflective surface orthogonal to the first reflective surface, as now required by amended claim 36.

Therefore, Simonet cannot render claim 36 as obvious under 35 U.S.C. §103(a).

As for Gutman, Applicants respectfully submit that Gutman is disqualified as prior art under 35 U.S.C. §103(c). Specifically, as stated in the MPEP §706.02(I)(1), prior art usable in an obviousness rejection under 35 U.S.C. §103 for applications filed on or after November 29, 1999 is disqualified as prior art against the claimed invention if that subject matter and the claimed invention



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"were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

At the time the present invention was made, both Gutman and the claimed invention were owned by OSMIC, Inc. in Troy, Michigan. Hence, since the present application was filed February 26, 2004, Gutman is disqualified as prior art.

Therefore, neither Iwasaki alone nor the combination of Nelson and Housfield can render claim 36 as obvious under 35 U.S.C. §103(a).

Accordingly, reconsideration of the rejections under 35 U.S.C. § 103 and allowance of claim 36 are respectfully requested. Further, since claims 37-42 and new claims 43-59 depend from claim 36, directly or indirectly, the reasons for allowance of claim 36 apply as well to the dependent claims.



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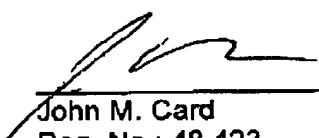
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Conclusion

In view of the above amendments and remarks, it is respectfully submitted that the present form of the claims (claims 36-59) are patentably distinguishable over the art of record and that this application is now in condition for allowance. Such action is respectfully requested.

Respectfully submitted by,

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